

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-X

EDWIN DELPHOS,

Plaintiff,

-against-

SONOMA CALIFORNIA CAFE,

Defendant.

ANSWER

Docket No. 07 CIV. 8601

Judge Karas

-X

Defendant SONOMA CALIFORNIA CAFE, by its attorney, Jeffrey A. Hoerter, Esq., MARTIN LAW GROUP, P.C., (who has been retained to act "of counsel" to BRENNAN & PONAMBALUM, Attorneys at Law), answering the complaint herein, alleges and responds as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth or veracity of the allegations and assertions set forth in paragraph 1 of the complaint herein.
2. Denies knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 2 of the complaint.
3. Denies knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 3 of the complaint.
4. Denies knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 4 of the complaint.
5. Denies knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 5 of the complaint, subject to further investigation

of the matter asserted therein.

6. Admits the allegation contained in paragraph 6 of the complaint.
7. Admits the allegation contained in paragraph 7 of the complaint.
8. Denies knowledge or information sufficient to form a belief as to the truth or veracity of the allegation contained in paragraph 8 of the complaint.
9. Denies knowledge and information sufficient to form a belief as to the allegation set forth in paragraph 9 of the complaint.
10. Denies the allegation set forth in paragraph 10 of the complaint.
11. Denies knowledge and information sufficient to form a belief as to the allegation set forth in paragraph 11 of the complaint.
12. Admits so much of the allegation contained in paragraph 12 of the complaint regarding plaintiff's termination; denies that plaintiff was told that "Spanish guys work more hours and are cheaper;" and, denies knowledge and information sufficient to form a belief as to the allegation that plaintiff was replaced by a Latino.
13. Denies knowledge and information sufficient to form a belief as to the allegation set forth in paragraph 13 of the complaint.
14. All allegations set forth above are repeated and reiterated as if more fully set forth at length.
15. Denies the allegation set forth in paragraph 15 of the complaint.
16. Denies the allegation set forth in paragraph 16 of the complaint.
17. Denies the allegation set forth in paragraph 17 of the complaint.
18. Denies the allegation set forth in paragraph 18 of the complaint.

19. Denies the allegation set forth in paragraph 19 of the complaint.
20. Denies the allegation set forth in paragraph 20 of the complaint.
21. Denies the allegation set forth in paragraph 21 of the complaint.
22. Denies the allegation set forth in paragraph 22 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

23. The complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

24. Service of process upon defendant was insufficient, thus depriving this Court of personal jurisdiction.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

25. Plaintiff was fully, completely, and properly compensated for all work and for all hours of work actually performed by plaintiff, all in accordance with all applicable laws, rules, and regulations.

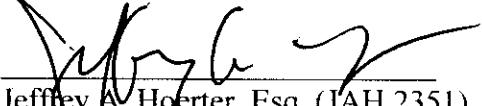
AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

26. Plaintiff's termination from employment by defendant was lawful and proper and was not done for or motivated by any improper or prohibited purpose.

WHEREFORE, defendant demands judgment against plaintiff dismissing the instant action in its entirety, and for such other and further relief as the Court may determine to be just under the circumstances.

Dated: Wappingers Falls, New York
October 24, 2007

MARTIN LAW GROUP, P.C.
2644 East Main Street
Wappingers Falls, New York 12590
(845) 440-8594
(845) 440-8596 (Fax)

By: 
Jeffrey A. Hoerter, Esq. (JAH 2351)
Attorney for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CERTIFICATION OF SERVICE OF PLEADING

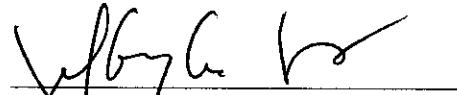
Jeffrey A. Hoerter, Esq., an attorney duly admitted to practice before the Courts of the State of New York and the United States District Court for the Southern District of New York, certifies and affirms the following under the penalty of perjury:

1. I have been retained as the attorney for defendant in the above-captioned action;
2. I have read the foregoing answer;
3. That the same was prepared by me after consultation with the owners/operators of defendant, and that the matter asserted therein is based upon such consultation and upon my own investigation of the matter; and
4. On October 24, 2007, I served a copy of the within ANSWER upon Robert David Goodstein, Esq., attorney for plaintiff, by first class mail addressed as follows:

Robert D. Goodstein, Esq.
56 Harrison Street (Suite 401)
New Rochelle, New York 10801

Dated: Wappingers Falls, New York

October 24, 2007



Jeffrey A. Hoerter, Esq.
Attorney for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANSWER

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ANSWER

MARTIN LAW GROUP, P.C.
Attorneys for Petitioners

Office and Post Office Address, Telephone

2644 East Main Street
Wappingers Falls, New York 12590
(845) 440-8594

To: Clerk of Court

Signature (Rule 130-1.1-a)

Robert D. Goodstein, Esq.
Attorney for Plaintiff
56 Harrison Street (Suite 401)
New Rochelle, New York 10801

Jeffrey A. Hoerter, Esq. (JAH 2351)